

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

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|-----------------------------|---|-------------------------|
| STATE OF NEW MEXICO on the |) | |
| relation of State Engineer, |) | |
| |) | |
| Plaintiff, |) | |
| |) | 69cv07941-BB-ACE |
| -v- |) | |
| |) | RIO CHAMA STREAM SYSTEM |
| RAMON ARAGON et al., |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

MOTION OF SPECIAL MASTER
FOR INTERIM FEES AND EXPENSES

TO: The Honorable Bruce D. Black
United States District Judge

FROM: Vickie L. Gabin
Special Master

A Motion requesting the Court to approve interim fees and expenses, a brief summary of the work performed, and the Special Master's Declaration in support of Motion

This Motion is submitted pursuant to the Administrative Order entered February 23, 1995, regarding the manner in which the Special Master, data manager and other personnel required by the Special Master are paid for services, costs, expenses and New Mexico gross receipts taxes related to this adjudication. The Special Master hereby moves for an order of the Court approving the work performed in this case from July 1, 2005, through December 31, 2005, as described herein, and the manner by which fees and expenses have been paid from the trust account.

I. WORK PERFORMED

A. Case management

The court's data manager continues to track all water rights information contained in newly filed consent orders for Sections 3 (Rios Cebolla, Canjilon and Las Nutrias), and Section 7 (Tierra Amarilla). I continue to review and approve consent orders and acknowledgments, decide motions relevant to subfile activity in these sections, enter litigation and scheduling orders, and monitor the progress of the subfile activity. Quarterly status conferences were held August 8 in Tierra Amarilla and November 8 in Santa Fe, as well as miscellaneous pretrial and scheduling conferences on specific issues. For Subfile No. CH-004-0044 in Section 7, I held a day-long hearing on issues remanded to me by the Court.

The Section 5 acequias (Gallina) continue to analyze whether the State's proposed consumptive irrigation amounts are acceptable. If so, the priorities and CIR amounts will be subject to individual parciantes' objections, and a section-wide *inter se* proceeding is planned. In Section 7, the resolution of the state law-based claims of the Jicarilla Apache Nation is proceeding.

At the same time we are working on Sections 3, 5 and 7, efforts are underway to bring up to date and complete the reaches of the Rio Chama Stream System which were adjudicated in previous decades. Pursuant to the March 14, 2005, Procedural Order for Completion of Primary Subfile Work and Resolution of Errors and Omissions (No. 7785), the affected parties have begun a systematic process for identifying and resolving errors and omissions in the hydrographic survey and ensuring that previously entered subfile orders are correct.

B. Federal and Indian water rights claims

Because of competing demands on attorney and judicial resources, the adjudication of San Juan Pueblo's rights has been deferred until the Pueblo's claims have been litigated in State v. Abbott, the Santa Cruz/Truchas adjudication. The adjudication of Non-Indian and non-Wild and Scenic River claims are guided by the March 1 Scheduling Order for Federal Non-Indian Water Rights Claims in Sections 3, 5, and 7. The Order provides the sequence by which the claims are to be brought, investigated and addressed in each section. The Wild and Scenic River claims matter, which was remanded to me by the Court, is governed by the July 18, 2005, Initial Scheduling and Pretrial Order for the Adjudication of Wild and Scenic River Claims.

II. DECLARATION

DECLARATION OF SPECIAL MASTER IN SUPPORT OF MOTION

I, Vickie L. Gabin, declare that the work described above is the basis for this Motion, and that the work of data manager Karla McCall, Geta A. Gatterman, paralegal and administrative assistant, has been completed as described. Hourly records of work performed are available from the contractors if needed.

Dated: February 6, 2006

/electronic signature/
SPECIAL MASTER VICKIE L. GABIN